



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

SK/EMR/PP/MED/AA
F. #2019R00927

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 8, 2023

By ECF

Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Genaro Garcia Luna
Criminal Docket No. 19-576 (BMC)

Dear Judge Cogan:

The government writes in advance of the testimony of Special Agent George Dietz, a summary witness expected to testify as to certain exhibits found on the defendant's electronic devices. The parties expect to enter into a stipulation as to the authenticity of the exhibits but disagree as to their admissibility. Accordingly, the government submits the following description of the exhibits it plans to introduce into evidence, as well as the basis for their admissibility. The government additionally appends Government Exhibit 1300A, a summary chart reflecting the filepaths and creation data of the files. The government will also provide the proposed exhibits to the Court for review.

The exhibits generally consist of: (1) depictions of property the defendant acquired in Mexico during the time period when he was in office and receiving money from the Sinaloa Cartel; (2) evidence that the defendant had access to cash businesses during the time period when he was in office and receiving money from the Sinaloa Cartel; and (3) evidence, for venue purposes, that the defendant's prosecution in this District was reasonably foreseeable to him.

With respect to the first category of evidence, the government notes that this evidence includes photos that depict those same properties in Mexico (acquired while the defendant was in office) during the post-2012 period. The government respectfully submits that these photographs are admissible because they are probative of the defendant's ability to store and spend cash in Mexico (where he received it) and as evidence that the defendant had the opportunity to continue spending the proceeds of his criminal conspiracy, given that he retained homes in Mexico, continued to spend money there, and traveled back and forth frequently. This evidence also establishes that the defendant continued to benefit from the proceeds of the

conspiracy after 2012 (refuting a withdrawal defense). See United States v. Abdur-Razzaaq, 372 Fed. App'x 212, 215 (2d Cir. 2010) (summary order) (rejecting withdrawal defense, noting that defendant “accepted drug proceeds” during statute of limitations period); United States v. Acuna, 313 Fed. App'x 283, at 11–12 (11th Cir. 2009) (holding that defendant had not withdrawn from conspiracy where he continued to conceal source of ill-gotten gains after he resigned from enterprise). Furthermore, admission of these photographs is consistent with the Court’s January 19, 2023 order noting that evidence is admissible if it links back to the time period when the Sinaloa Cartel was paying the defendant, that “[t]he Government is free to introduce evidence of opportunity during the relevant period,” and also that “[s]ome of the defendant’s post-2012 activity will necessarily come in . . . if [the defense] argue[s] that defendant withdrew from any conspiracy,. See ECF No. 182 at 5-6. This evidence does not pertain to the defendant’s post-2012 consulting activities.

GX Number(s)	Description	Relevance
1302–1307, 1322, 1341– 1350, 1442, 1444–1463, 1540, 1542, 1543	Photos of the defendant’s residence in Jiutepec, Morelos taken in 2009 and 2010	<ul style="list-style-type: none"> • Pre-2013 wealth • Corroboration of Hector Villareal Hernandez
1531, 1533	Photos of Mustang and Land Rover cars at the defendant’s Jiutepec, Morelos home taken in March 2013	<ul style="list-style-type: none"> • Pre-2013 wealth
1530	Photo of green mini coop car taken in 2011	<ul style="list-style-type: none"> • Pre-2013 wealth
1319–1321	Photos of the defendant’s residence in Jiutepec, Morelos taken around the defendant’s 50th birthday, in 2018, along with an invitation to the birthday party	<ul style="list-style-type: none"> • Pre-2013 wealth • Statute of limitations • Withdrawal
1308–1315	Photos of the defendant’s wife’s restaurant, Café Los Cedros	<ul style="list-style-type: none"> • Pre-2013 wealth • Access to cash businesses
1325–1329, 1332–1334, 1352–1356, 1359, 1360, 1465, 1477	Photos of the defendant’s home in Mexico City, featuring a large fish tank	<ul style="list-style-type: none"> • Corroboration of Ambassador Wayne • Pre-2013 wealth
1337	Custom art depicting the defendant, recovered from the defendant’s Blackberry SIM card (N-15)	<ul style="list-style-type: none"> • Pre-2013 wealth
1338, 1339	Contact information for Ramon Pequeno and Facundo Rosas, extracted from the defendant’s Blackberry SIM card (N-15)	<ul style="list-style-type: none"> • Corroboration of the conspiracy • Withdrawal
1363	Excel sheet showing list of guns owned by the defendant	<ul style="list-style-type: none"> • Pre-2013 wealth
1374–1376	Permits for the defendant’s gun collection	<ul style="list-style-type: none"> • Pre-2013 wealth • Statute of limitations

GX Number(s)	Description	Relevance
		<ul style="list-style-type: none"> • Withdrawal •
1364	Screenshot of tweets regarding Jesus Zambada's testimony implicating the defendant in the El Chapo trial	<ul style="list-style-type: none"> • Foreseeability • Venue
1323, 1324, 1335, 1336	Photos of Harley Davidson motorcycles belonging to the defendant	<ul style="list-style-type: none"> • Corroboration of Sergio Villarreal Barragan • Pre-2013 wealth
1377	Bill of lading importing two Harley Davidsons and a Mustang to Florida from Mexico	<ul style="list-style-type: none"> • Pre-2013 wealth • Statute of limitations • Withdrawal • Corroboration of Sergio Villarreal Barragan
1378, 1379	Harley Davidsons with Florida license plates	<ul style="list-style-type: none"> • Pre-2013 wealth • Statute of limitations • Withdrawal • Corroboration of Sergio Villarreal Barragan
1474–1476	Photos of Mustang cars at the defendant's Miami residence	<ul style="list-style-type: none"> • Statute of limitations • Withdrawal • Pre-2013 wealth
1383	Pawn shop receipt	<ul style="list-style-type: none"> • Statute of limitations • Withdrawal
1389, 1390, 1473	Business cards and photo relating to Set Soluciones	<ul style="list-style-type: none"> • Access to cash businesses
1558, 1559	Books and records for Set Soluciones	<ul style="list-style-type: none"> • Pre-2013 wealth • Access to cash businesses
1481, 1482, 1487, 1494, 1505–1508, 1510–1512, 1515, 1516, 1523, 1528	Photos of construction of Set Soluciones taken in 2010	<ul style="list-style-type: none"> • Pre-2013 wealth • Access to cash businesses
1395–1397	Charging and arrest documents related to Edgar Veytia	<ul style="list-style-type: none"> • Consciousness of guilt • Foreseeability
1424, 1425	Photos of the defendant's yacht	<ul style="list-style-type: none"> • Pre-2013 wealth
1560	Photo of the defendant driving a Lamborghini taken in 2010	<ul style="list-style-type: none"> • Pre-2013 wealth

BREON PEACE
United States Attorney

cc: Clerk of the Court (BMC)
Counsel of Record